IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No.1178 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HOTEL PRESIDENT

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 1178 of 2003

MR GT DAYANI for Applicant No. 1

MR KT DAVE, APP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 24/12/2003

ORAL JUDGEMENT

RULE. Mr.K.T.Dave, learned A.P.P., waives service of rule on behalf of the respondent - State. At the request of the learned counsel for the parties, the matter is taken up for final disposal today itself.

2. This application is filed seeking modification in the order passed by the learned Additional Sessions Judge, Valsad at Navsari dated 24-05-1999. By the said order, passed in Criminal Revision Application No.48 of 1999, the learned Judge has directed handing over of the muddamal of Criminal Case registered at Vasda Police Station at Crime Register No.III-12 of 1999 on the conditions mentioned in the said order. Condition No.2 directs that the present applicant, to whom muddamal liquor belongs, is required to maintain it in the same condition till disposal of the said Criminal Case.

3. It may be noted here that the muddamal comprises of Indian made Foreign Liquor of the ownership of the present applicant, who is a licensed vendor of the liquor. 384 bottles of Indian made Foreign Liquor were seized by the police of Vasda Police Station on 07-02-1999. Later on, the said muddamal was sought to be recovered by the applicant by filing appropriate application which was turned down by the learned Magistrate, Vasda vide order dated 12-03-1999. Against the said order, the applicant approached the Court of Sessions at Valsad, by filing the aforesaid Revision Application, which was granted on the conditions mentioned therein.

4. After hearing Mr.G.T.Dayani, learned Advocate for the applicant, and Mr.K.T.Dave, learned A.P.P. appearing for the respondent - State, it appears that the applicant is a licensed owner of the said muddamal. He is in no way involved in the present crime. The applicant, as stated above, is a licensed dealer in the Indian made Foreign liquor. It is also stated before this Court that the accused of the aforesaid case, namely, the driver of the truck at the relevant time, is absconding and he is still not apprehended and not available for trial. It is also stated that a detailed panchnama with regard to the said muddamal is already drawn and a charge-sheet was submitted before the concerned Court. In that view of the matter, there is no point in restricting or prohibiting the applicant from selling the said muddamal article. If that is not allowed to be sold, it will cause him financial hardship and it also will be a matter of concern for him to preserve the said bottles till the final disposal of the criminal case, which, at present, is nowhere in sight.

5. In the aforesaid circumstances, the application is allowed. The condition contained at Sr. No.2, with regard to maintenance of status-quo in respect of the muddamal, imposed by the learned Additional Sessions

Judge, Valsad at Navsari in its order dated 24.05.1999 passed in Criminal Revision Application No.48 of 1999 is quashed and set aside. In other words, the applicant would be at liberty to deal with the said muddamal in the due course of his business.

The application is, therefore, allowed. Rule is made absolute accordingly.

Sd/-

[AKSHAY H.MEHTA, J]

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'Bhavesh'